



# House of Representatives

General Assembly

**File No. 53**

*January Session, 2007*

Substitute House Bill No. 7087

*House of Representatives, March 13, 2007*

The Committee on General Law reported through REP. STONE of the 9th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING METHAMPHETAMINES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-240 of the general statutes is amended by  
2 adding subdivision (59) as follows (*Effective October 1, 2007*):

3 (NEW) (59) "Methamphetamine-type substances" means  
4 methamphetamine and structural analogues, including, but not limited  
5 to, methylenedioxymethamphetamine (MDMA) and other substituted  
6 phenylethylamine compounds, their salts, isomers and salts of isomers  
7 and chemical compounds which are similar thereto in chemical  
8 structure or which are similar thereto in physiological effect, and  
9 which show a like potential for abuse or which are controlled  
10 substances under this chapter, unless modified.

11 Sec. 2. Section 21a-277 of the general statutes is repealed and the  
12 following is substituted in lieu thereof (*Effective October 1, 2007*):

13 (a) Any person who manufactures, distributes, sells, prescribes,

14 dispenses, compounds, transports with the intent to sell or dispense,  
15 possesses with the intent to sell or dispense, offers, gives or  
16 administers to another person any controlled substance which is (1) a  
17 hallucinogenic substance other than marijuana, [or] (2) a narcotic  
18 substance, or (3) a methamphetamine-type substance, except as  
19 authorized in this chapter, for a first offense, shall be imprisoned not  
20 more than fifteen years and may be fined not more than fifty thousand  
21 dollars or be both fined and imprisoned; and for a second offense shall  
22 be imprisoned not more than thirty years and may be fined not more  
23 than one hundred thousand dollars, or be both fined and imprisoned;  
24 and for each subsequent offense, shall be imprisoned not more than  
25 thirty years and may be fined not more than two hundred fifty  
26 thousand dollars, or be both fined and imprisoned.

27 (b) Any person who manufactures, distributes, sells, prescribes,  
28 dispenses, compounds, transports with intent to sell or dispense,  
29 possesses with intent to sell or dispense, offers, gives or administers to  
30 another person any controlled substance, except (1) a narcotic  
31 substance, [or] (2) a hallucinogenic substance other than marijuana, or  
32 (3) a methamphetamine-type substance, except as authorized in this  
33 chapter, may, for the first offense, be fined not more than twenty-five  
34 thousand dollars or be imprisoned not more than seven years or be  
35 both fined and imprisoned; and, for each subsequent offense, may be  
36 fined not more than one hundred thousand dollars or be imprisoned  
37 not more than fifteen years, or be both fined and imprisoned.

38 (c) No person shall knowingly possess drug paraphernalia in a drug  
39 factory situation, as defined by subdivision (20) of section 21a-240, for  
40 the unlawful mixing, compounding or otherwise preparing any  
41 controlled substance for purposes of violation of this chapter. Any  
42 person who violates the provisions of this subsection may, for the first  
43 offense, be fined not more than one thousand dollars or be imprisoned  
44 not more than two years, or be both fined and imprisoned, except that  
45 if such drug paraphernalia is for the unlawful mixing, compounding  
46 or otherwise preparing a methamphetamine-type substance, such  
47 person may be fined not more than five thousand dollars or be

48 imprisoned not more than five years, or be both fined and imprisoned.  
49 Any person who violates the provisions of this subsection may, for a  
50 subsequent offense, be fined not more than ten thousand dollars or be  
51 imprisoned not more than ten years, or be both fined and imprisoned.

52 (d) As an alternative to the sentences specified in subsections (a)  
53 and (b) of this section, the court may sentence the person to the  
54 custody of the Commissioner of Correction for an indeterminate term  
55 not to exceed three years or the maximum term specified for the  
56 offense, whichever is the lesser, and, at any time within such  
57 indeterminate term and without regard to any other provision of law  
58 regarding minimum term of confinement, the Commissioner of  
59 Correction may release the convicted person so sentenced subject to  
60 such conditions as he may impose including, but not limited to,  
61 supervision by suitable authority. At any time during such  
62 indeterminate term, the Commissioner of Correction may revoke any  
63 such conditional release in his discretion for violation of the conditions  
64 imposed and return the convicted person to a correctional institution.

65 Sec. 3. Subsection (a) of section 21a-278 of the general statutes is  
66 repealed and the following is substituted in lieu thereof (*Effective*  
67 *October 1, 2007*):

68 (a) Any person who manufactures, distributes, sells, prescribes,  
69 dispenses, compounds, transports with the intent to sell or dispense,  
70 possesses with the intent to sell or dispense, offers, gives or  
71 administers to another person one or more preparations, compounds,  
72 mixtures or substances containing an aggregate weight of one ounce or  
73 more of heroin or methadone or an aggregate weight of one-half ounce  
74 or more of cocaine or one-half ounce or more of cocaine in a free-base  
75 form, or an aggregate weight of fifty grams or more of  
76 methamphetamine or fifty grams or more of a mixture or substance  
77 containing a detectable amount of methamphetamine-type substance,  
78 or a substance containing five milligrams or more of lysergic acid  
79 diethylamide, except as authorized in this chapter, and who is not, at  
80 the time of such action, a drug-dependent person, shall be imprisoned

81 for a minimum term of not less than five years or more than twenty  
82 years; and, a maximum term of life imprisonment. The execution of the  
83 mandatory minimum sentence imposed by the provisions of this  
84 subsection shall not be suspended, except the court may suspend the  
85 execution of such mandatory minimum sentence if at the time of the  
86 commission of the offense (1) such person was under the age of  
87 eighteen years, or (2) such person's mental capacity was significantly  
88 impaired, but not so impaired as to constitute a defense to prosecution.

89 Sec. 4. Subsection (b) of section 21a-267 of the general statutes is  
90 repealed and the following is substituted in lieu thereof (*Effective*  
91 *October 1, 2007*):

92 (b) No person shall deliver, possess with intent to deliver or  
93 manufacture with intent to deliver drug paraphernalia knowing, or  
94 under circumstances where one reasonably should know, that it will  
95 be used to plant, propagate, cultivate, grow, harvest, manufacture,  
96 compound, convert, produce, process, prepare, test, analyze, pack,  
97 repack, store, contain or conceal, or to ingest, inhale or otherwise  
98 introduce into the human body, any controlled substance. Any person  
99 who violates any provision of this subsection shall be guilty of a class  
100 [A misdemeanor] D felony.

101 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) There is established an  
102 account to be known as the "methamphetamine laboratory clean-up  
103 account" which shall be a separate nonlapsing account within the  
104 General Fund. The account may contain any moneys required by law  
105 to be deposited in the account. Any balance remaining in the account  
106 at the end of any fiscal year shall be carried forward in the account for  
107 the next fiscal year. All moneys deposited in the account shall be used  
108 for the purposes of this section.

109 (b) The court, when sentencing a defendant convicted of an offense  
110 involving the manufacture of a methamphetamine-type substance, as  
111 defined in section 21a-240 of the general statutes, as amended by this  
112 act, shall order the defendant to reimburse the state for the costs  
113 incurred for any clean-up associated with the manufacture of such

114 methamphetamine-type substance by the defendant.

115 (c) All moneys reimbursed to the state pursuant to subsection (b) of  
116 this section shall be deposited in the methamphetamine laboratory  
117 clean-up account established in subsection (a) of this section. The  
118 Commissioner of Environmental Protection shall have the authority to  
119 authorize expenditures from said account to reimburse any state or  
120 municipal agency for costs associated with cleaning to proper  
121 environmental standards any site where a methamphetamine-type  
122 substance was manufactured.

123 Sec. 6. Section 21a-243 of the general statutes is amended by adding  
124 subsection (h) as follows (*Effective October 1, 2007*):

125 (NEW) (h) (1) Any person who sells or offers for sale at retail any  
126 drug product or combination of drug products containing ephedrine,  
127 pseudoephedrine or phenylpropanolamine, or their salts, isomers or  
128 salts of isomers, shall: (A) Store such drug product or combination of  
129 drug products in a location that is inaccessible to consumers, and (B)  
130 require consumers to request and purchase such drug product or  
131 combination of drug products at the counter.

132 (2) A person who sells or offers for sale at retail any drug product or  
133 combination of drug products pursuant to subdivision (1) of this  
134 subsection shall maintain a log book. The log book shall contain: (A)  
135 The signature of the purchaser of the product, (B) the name of the  
136 purchaser of the product, (C) the address of the purchaser of the  
137 product, (D) the date of the purchase, (E) the time of purchase, and (F)  
138 the name of the seller. The seller shall maintain the log book for not  
139 less than two years after the date the last entry is made in the log book.  
140 The seller shall obtain positive identification of the purchaser to verify  
141 the information in the log book.

142 (3) Each seller shall maintain a self certification that all individuals  
143 who are responsible for the delivery of drug products to purchasers or  
144 who deal directly with purchasers by obtaining payments for such  
145 products have completed training provided by the seller to ensure

146 such individuals understand the requirements of this section.

147 (4) No person shall purchase, receive or otherwise acquire more  
148 than seven and one-half grams of any drug product or combination of  
149 drug products containing ephedrine, pseudoephedrine or  
150 phenylpropanolamine, or their salts, isomers or salts of isomers within  
151 any thirty-day period.

152 (5) Sellers of such drug products shall comply with applicable  
153 federal laws and regulations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	21a-240
Sec. 2	October 1, 2007	21a-277
Sec. 3	October 1, 2007	21a-278(a)
Sec. 4	October 1, 2007	21a-267(b)
Sec. 5	October 1, 2007	New section
Sec. 6	October 1, 2007	21a-243

**Statement of Legislative Commissioners:**

Subdivision designator (1) in section 2(b) was moved for clarity and accuracy.

**GL**            *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Various Criminal Justice Agencies	GF - Cost	Potential	Potential
Judicial Dept.	GF - Potential Revenue Gain	Minimal	Minimal
Dept. of Environmental Protection - Methamphetamine Laboratory Clean-Up Account	GF - Revenue Gain	Potential	Potential
Various State Agencies	GF - Savings	Potential	Potential

Note: GF=General Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	Savings	Potential	Potential

### **Explanation**

The bill increases criminal penalties for offenses involving methamphetamine-type substances and trafficking in drug paraphernalia. To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties, a potential revenue gain from criminal fines and potential cost for incarceration and/or probation supervision in the community exist. It is anticipated that relatively few criminal fines would be imposed on an annual basis, and, consequently, any revenue gain from them is expected to be minimal. On average, it costs the state approximately \$2,500 annually to supervise an offender on probation in the community as compared to \$41,600 to incarcerate the offender (note that both figures include fringe benefits).

The bill establishes a restricted, non-lapsing account within the General Fund that may be used to reimburse any state or municipal agency charged with cleaning a site where a methamphetamine-type

substance was manufactured. The Commissioner of Environmental Protection is authorized under the bill to make payments from this account. The bill requires any person convicted of manufacturing methamphetamine to reimburse the state for payments made from this account to clean up the site with which the defendant is associated. In 2005, there were three sites discovered in Connecticut. The average cost to clean up a site is estimated to be \$5,000 per incident, but could be much more. To the extent that a state or municipal agency would otherwise be liable to clean up such a site, the bill could yield savings by shifting the cost to the convicted defendant.

### ***The Out Years***

Except for revenues from criminal fines (which are set by statute), the annualized ongoing, potential fiscal impacts identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 7087****AN ACT CONCERNING METHAMPHETAMINES.****SUMMARY:**

This bill:

1. increases the penalties for trafficking in methamphetamine-type substances;
2. establishes a statutory definition for them;
3. sets a sentence for a non-drug dependent person who sells amounts of them over certain thresholds;
4. increases the penalty for a first-time offense for violating the drug paraphernalia law in connection with them;
5. increases the penalty for trafficking in drug paraphernalia;
6. creates an account to pay for cleaning up methamphetamine labs funded by defendants convicted of an offense that involves its manufacture; and
7. like federal law, requires drugs used in its manufacture, like pseudoephedrine, to be kept behind a counter and requires sellers to keep a log book of purchasers.

EFFECTIVE DATE: October 1, 2007

**METHAMPHETAMINE-TYPE SUBSTANCES**

The bill defines “methamphetamine-type substances” as methamphetamine and structural analogues, including methylenedioxymethamphetamine (MDMA) and other substituted

phenylethylamine compounds; their salts, isomers, and salts of isomers; and chemical compounds that are similar in chemical structure or physiological effect, and that show a like potential for abuse or that are controlled substances, unless modified.

## **PENALTY**

### ***Trafficking in Methamphetamine-Type Substances***

The law subjects anyone who trafficks in controlled substances that are hallucinogens, other than marijuana, or narcotics except as authorized by law, to the following maximum penalties: (1) for a first offense, 15 years imprisonment, \$50,000 fine, or both; (2) for a second offense, 30 years imprisonment, \$100,000 fine, or both; and (3) for subsequent offenses, 30 years, \$250,000, or both. The bill subjects someone who trafficks in a controlled substance that is a methamphetamine-type substance to the same penalties. Under current law, someone who trafficks in them is subject to the following maximum penalties: seven years imprisonment, \$25,000 fine, or both, for a first offense and 15 years imprisonment, \$100,000 fine, or both, for subsequent offenses.

### ***Sales by a Non-Drug Dependent Person***

The law sets the penalty for a non-drug dependent person trafficking in narcotic substances in amounts greater than certain thresholds at a minimum of five years to life in prison. The thresholds are: one ounce of heroin or methadone, one-half ounce of cocaine or crack, and five milligrams of lysergic acid diethylamide. The bill subjects a non-drug dependent person to the same penalty if he trafficks in at least 50 grams of methamphetamine or a substance containing a detectable amount of methamphetamine-type substance.

### ***Drug Paraphernalia***

The law prohibits knowingly possessing drug paraphernalia in a drug factory situation to make or prepare a controlled substance in violation of the law on dependency-producing drugs. The maximum penalties are two years imprisonment, \$1,000 fine, or both for a first offense and 10 years imprisonment, \$10,000 fine, or both for

subsequent offenses (CGS § 21a-255). The bill increases the maximum penalty for a first offense if the offense is in connection with paraphernalia used to prepare a methamphetamine-type substance to five years imprisonment, \$5,000 fine, or both.

The bill increases, from a class A misdemeanor to a class D felony, the penalty for delivering, possessing with intent to deliver, or manufacturing with intent to deliver drug paraphernalia knowing, or under circumstances in which one should reasonably know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise consume a controlled substance. Class D felonies are punishable by one to five years imprisonment, a fine of up to \$5,000, or both.

#### **CLEAN-UP ACCOUNT**

The bill establishes the “methamphetamine laboratory clean-up account” as a separate nonlapsing account within the General Fund. The court, when sentencing a defendant convicted of an offense involving the manufacture of a methamphetamine-type substance, must order the defendant to reimburse the state for the cost incurred for any clean-up associated with its manufacture by the defendant.

All money reimbursed by the state must be deposited into the account. The environmental protection commissioner may authorize expenditures from it to reimburse a state or municipal agency for its clean-up costs. Balances within the account at the end of the fiscal year are carried forward into the next fiscal year.

#### **RETAIL SALES OF RELATED DRUGS**

The bill prohibits buying, receiving, or otherwise acquiring more than seven and one-half grams of a drug product, or combination of drug products, containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers within a 30-day period.

It requires retail sellers of these products to (1) store them in a

location inaccessible to consumers, (2) require consumers to ask for them and to purchase them at a counter, and (3) keep a log book of purchasers. The log book must include: (1) the purchaser's name, signature, and address; (2) purchase date and time; and (3) the seller's name. The book must be kept for at least two years after the date of the last entry. The bill requires sellers to obtain positive identification from the purchaser to verify the information entered in the log.

The bill requires sellers to keep a self-certification that all individuals who are responsible for delivering drug products to purchasers, or who deal directly with purchasers by taking payment, have completed training designed to ensure that they understand the bill's requirements relating to selling these drug products.

The bill requires sellers to comply with applicable federal law.

## **BACKGROUND**

### ***Controlled Substances***

Controlled substances are grouped in Schedules I through V, according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs in Schedules II through V; most Schedule I drugs do not have any approved medical use.

### ***Federal Law on Over-the-Counter (OTC) Sales of Drug Products Containing Pseudoephedrine***

Federal law limits the amount an individual may purchase in a 30-day period, requires consumers to present photo identification, requires retailers keep a log book of purchasers, and personal information about the consumers at least for two years (Title VI of PL 107-177).

## **COMMITTEE ACTION**

General Law Committee

Joint Favorable

Yea    18    Nay   0    (02/27/2007)